

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW MEXICO**

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**Case Title:** Francisco Javier Jayme

**Case Number:** 05-51020

<b>Document Information</b>
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**Description:** Motion by Debtor Francisco Javier Jayme concerning automatic stay

**Received on:** 2005-11-01 12:15:15.000

**Date Filed:** 2005-11-01 00:00:00.000

**Date Entered On  
Docket:** 2005-11-08 00:00:00.000

<b>Filer Information</b>
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**Submitted By:** Steve Mazer

<b>If this form is attached to the document identified above, it serves as an endorsed copy of the document as it existed on the above date. To confirm that nothing has changed since then, review the docket.</b>
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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF NEW MEXICO**

**IN RE:**

**FRANCISCO JAVIER JAYME,**

**Debtor.**

**No. 13-05-51020 ML**

**MOTION CONCERNING AUTOMATIC STAY  
AND REQUEST FOR EMERGENCY HEARING**

COMES NOW Francisco Javier Jayme (hereafter "Debtor"), by and through his Attorney Steve H. Mazer and respectfully shows the Court as follows:

1. Debtor filed a petition in bankruptcy today under Chapter 13.
2. Debtor is reliably informed and reasonably believes that Citibank, N.A. (hereafter "Creditor") has scheduled a judicial sale on foreclosure for 2:30 p.m., today, November 1, 2005.
3. The debtor has had two (2) prior bankruptcies within the past six (6) years, i.e., Case Number 13-04-17779 ML, filed October 25, 2004 and Dismissed on January 19, 2005; and Case Number 13-05-10619 ML, filed on January 31, 2005 and Dismissed on July 26, 2005.
4. That the Order of Dismissal on the last case, arose on a Motion entitled Debtors' Motion to Dismiss, but which recited in the body of the text that it was really a Motion to Convert and that the entry of the Order of Dismissal was or may have been entered in error and should not disqualify the Debtor from refiling within the 180 day period from July 26, 2005 pursuant to 11 U.S.C. §109(g).
5. That the Debtor has few unsecured creditors with the exception of the Internal Revenue Service and that the property which is the subject of the foreclosure has substantial equity, the property value is approximately \$660,000 and the secured debt is approximately \$465,000 and it would be

unjust and inequitable for the secured creditor to deprive the IRS and the Debtor of that equity without an opportunity to sell, cure or refinance the subject property.

6. That in light of the two (2) prior filings in the past two (2) years, the Automatic Stay is or may be ineffective to prevent the sale of the property at 2:30 p.m., today without further order of the Court.

7. That even if the automatic stay is imposed or extended, it may automatically terminate without further order of the Court within thirty (30) days of the date of the filing unless the Court extends it.

8. That Debtor is entitled to an Order imposing, sustaining and extending the automatic stay herein.

9. We contacted Elizabeth Dranttel, Attorney for Creditor Citibank, for concurrence to this Motion and said concurrence **was not** received.

WHEREFORE Debtor Francisco Javier Jayme respectfully prays the Court for an Order imposing, sustaining and extending the automatic stay herein, for an emergency hearing on this Motion, and for such other and further relief as to the Court may seem just and proper.

Filed electronically 11/1/2005

**STEVE H. MAZER**

**Attorney for Debtor**

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I HEREBY CERTIFY that a true copy of the  
foregoing was faxed and mailed to:

Elizabeth Dranttel, 7430 Washington Street NE, Albuquerque, NM 87109 (Fax: 833-3040)

this 1 day of November, 2005.

/s/ Steve H. Mazer